IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2007

CORAM

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.1557 of 2007

Mani ... Petitioner

Vs

1. The State of Tamil Nadu,
   Rep. by its Secretary to Govt.,
   Prohibition and Excise Department
   Fort St.George, Secretariat, Chennai.

2. The District Magistrate and
   District Collector of
   Vellore District, Vellore. ... Respondents

Petition filed under Article 226 of the Constitution of India for issue of Writ of Habeas Corpus calling for the records in connection with the order of detention passed by the Second Respondent dated 17.10.2007 in her office Ref.C3.D.O.No.90/2007 against the petitioner's wife KRISHNAVENI W/o. MANI now confined of special prison, Vellore, set aside the same and direct the respondents to produce the detenu and set her at liberty.

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For Petitioner :Mr.E.Kannadasan

For Respondents:Mr.N.R.Elango
Addl. Public Prosecutor

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O R D E R

(Made by P.D.DINAKARAN,J.)

Aggrieved by the order of detention dated 17.10.2007 made in Ref.C3.D.O.No.90/2007 passed by the second respondent under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) to detain one Krishnaveni, branding her as a Bootlegger, the petitioner, who is the husband of the detenue, filed the above petition seeking to quash the order of detention and to direct the respondents to produce the detenue, now confined at Special Prison, Vellore, before this Court and set her at liberty.

2. On 2.10.2007 at about 8.30 hours, one Loganathan purchased one glass of arrack from the detenue and after consuming the same, he felt burning and irritation in throat, eyes and stomach and vomitted. Suspecting that some poisonous substance would have been admixed with the liquor, he preferred a complaint before the Sub-Inspector of Police, Sathuvachari Police Station, on the basis of which, investigation was taken up and the detenue was arrested. Pursuant to the confession statement given by the detenue admitting the offence, samples of illicit arrack were seized and after registering a case in Crime No.337 of 2007 for the offence under Sections 4(1)(i), 4(1)(aaa), 4(1-A)(ii) of the Tamil Nadu Prohibition Act r/w Section 328 IPC, the detenue was sent to Court for judicial remand. Samples of arrack was found admixed with 6.4 mgms% w/v of atropine, as per chemical analysis report.

3. The second respondent, taking note of the above ground case and finding that there are nine adverse cases of similar nature, viz. in Crime Nos.109/06, 470/06, 541/06, 553/06, 577/06, 15/07, 84/07 and 261/07 on the file of Sathuvachari Police Station and in Crime No.591/07 on the file of Vellore Prohibition Enforcement Wing Police Station, having satisfied that there is a compelling necessity to detain the detenue in order to prevent her from indulging in the activities which are prejudicial to the maintenance of public order and public health, ordered her detention dubbing her as a 'Bootlegger'.

4. The learned counsel for the petitioner inviting our attention to the FIR and arrest memo, contends that there is no possibility of mentioning the crime number in the memo of arrest showing the time of arrest of the detenu at 14.45 hours on 2.10.2007, when

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the information itself was received at the police station only at 18.00 hours as per the FIR and therefore, the said discrepancy vitiates the order of detention.

5. We have heard the learned Additional Public Prosecutor on the above point and also perused the materials placed before us.

6. It is seen from the paper book placed before us that in the memo of arrest, found at page 33, the detenue was shown to have been arrested at about 14.45 hours on 2.10.2007 and it also contains the crime number as Cr.No.337 of 2007. But, in the F.I.R. found at page 27, it is stated that the information itself was received at the police station only at 18.00 hours. If that be so, the detaining authority has not applied their mind as to how the crime number of the case could be mentioned in the memo of arrest, when the information itself was received by the police at a later point of time, which, in our considered opinion, vitiates the order of detention.

In the result, the impugned order of detention is set aside. The detenue is directed to be set at liberty forthwith unless her presence is required in connection with any other case.

Sra

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government
   Prohibition & Excise Department
   Fort St. George, Chennai 9.

2. The District Magistrate and
   District Collector of
   Vellore District, Vellore.

3. The Superintendent,
   Special Prison for Women, Vellore.

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4. The Joint Secretary
to the Government of Tamil Nadu,
Public (Law and Order) Department,
Fort St George, Chennai 9.

5. The Public Prosecutor
High Court, Madras.

HCP.No.1557 of 2007

KSJ(CO)
SR/7.1.2008

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